

**DURHAM, NORTH CAROLINA
MONDAY, AUGUST 2, 2010
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell read a proclamation declaring August 3, 2010 as National Night Out presented to Jennifer Snyder, Project Safe Neighborhood Coordinator. Mayor Bell recognized Dr. Beverly Washington Jones who presented the student elected officials of Hayti from the 21st Century Community Learning Program.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Bonfield requested that agenda items 17 [Contract with Doc Arts, Inc. for Economic Development] and 32 [Proposed Condemnation of Property for Permanent Utility Easement at 1106 Hillandale Road] be referred back to the administration. Also, at the conclusion of the Consent Items, he noted there would be presentation on resurfacing streets in downtown Durham from Wally Boman with the North Carolina Department of Transportation.

MOTION by Council Member Woodard seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items from the City Attorney.

City Clerk Gray provided Council with a ballot for GBA Item #3 [Durham Housing Authority Board of Commissioners - Appointment].

MOTION by Council Member Ali seconded by Council Member Catotti to accept the City Clerk's priority item was approved at 7:14 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Council Member Clement congratulated Coach Willie Bradshaw for being inducted into the National Federation of State High School Associations Hall of Fame.

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Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. No items were pulled from the Consent Agenda.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the Consent Agenda was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve City Council minutes for the June 7, 2010 City Council Meeting, June 10, 2010 Special City Council Meeting, June 21, 2010 City Council Meeting and July 8, 2010 Special City Council Meeting; and

To approve City Council action taken at the May 20, 2010 and June 10, 2010 City Council Work Sessions was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE - APPOINTMENTS

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to appoint April M. Johnson and to reappoint Anthony Royster to the Citizens Advisory Committee with the terms to expire on June 30, 2013 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION - APPOINTMENT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to appoint Katherine Jordan to the Durham City-County Appearance Commission with the term to expire on April 1, 2013 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM BICYCLE & PEDESTRIAN ADVISORY COMMISSION- APPOINTMENT

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MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to appoint Jonathan Leach to the Durham Bicycle & Pedestrian Advisory Commission representing North Carolina Central University with the term to expire on August 31, 2013 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION - REAPPOINTMENTS

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to reappoint Melessia F. Cozart (Minority Female) and Nathaniel H. Goetz (Non-Minority Male) to the Human Relations Commission with the terms to expire on June 30, 2013 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HOUSING APPEALS BOARD – APPOINTMENT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to appoint Willie I. Patterson to the Housing Appeals Board as a Regular Member to represent At-Large with the term to expire June 30, 2013 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT - MAY 2010

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of May 2010 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Date: June 17, 2010

To: Thomas J. Bonfield, City Manager

Through: Wanda S. Page, Deputy City Manager
David Boyd, Finance Director

From: Joseph W. Clark, Purchasing Manager

Subject: Bid Report – May 2010

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager

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during the month of May 2010.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: One (1) 16,500 GVWR Cab & Chassis

Purpose of Bid: To provide the Parks & Recreation Department with a new truck.

Comments: A truck body will be mounted on this cab & chassis.

Opened: February 26, 2010

Bidders:	University Ford	* \$26,050.00
	Durham, NC	
	Piedmont Truck	\$28,208.00
	Greensboro, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	201		# Black Males	19	9%
Total # Females	26	13%	# White Males	153	76%
Total # Males	175	87%	# Other Males	3	2%
			# Black Females	2	1%
			# White Females	24	12%
			# Other Females	0	0%

2. Bid: Liquid Corrosion Inhibitor

Purpose of Bid: To provide Water Management with Corrosion Inhibitor. This chemical is used in the water treatment process.

Comments: 30 tons @ \$558.00/ton

Opened: April 27, 2010

Bidders:	Brenntag SE	* \$16,740.00
	Durham, NC	
	Old Bridge Chemicals	\$17,100.00
	Old Bridge, NJ	
	Carus Corporation	\$18,300.00
	Peru, IL	
	Shannon Chemical	\$20,181.60
	Malvern, PA	

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F2 Industries	\$27,900.00
Smyrna, TN	
Pragon Inc	\$30,360.00
Augusta, GA	
American Water Chemical	\$50,400.00
Tampa, FL	

*Awarded based on: X Low Bid Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	123		# Black Males	48	38%
Total # Females	33	26%	# White Males	39	35%
Total # Males	90	74%	# Other Males	3	01%
			# Black Females	6	03%
			# White Females	27	23%
			# Other Females	0	0%

3. **Bid:** **Software License Renewal**

Purpose of Bid: To renew the Primavera Software License for the Public Works Department

Comments: Oracle is the only known source for this software.

Opened: May 4, 2010

Bidders:	Oracle Corporation	*\$16,178.67
	Red Shores, CA	

*Awarded based on: Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	541		# Black Males	21	4%
Total # Females	181	33.5%	# White Males	283	52%
Total # Males	360	66.5%	# Other Males	56	10.5%
			# Black Females	25	5%
			# White Females	128	24%
			# Other Females	28	4.5%

4. **Bid:** **MSA Thermal Heat Camera with Accessories**

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Purpose of Bid: To purchase a thermal heat camera with accessories for the Durham Fire Department.

Comments:

Opened: April 26, 2010

Bidders:	Newton's Fire & Safety	* \$13,345.00
	Sweptsonville, NC	
	First Choice Fire & Safety	\$14,135.00
	Hillsborough, NC	
	G & C Supply Co., Inc.	\$14,495.00
	Atwood, TN	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	15		# Black Males	0	0%
Total # Females	2	10%	# White Males	13	90%
Total # Males	13	90%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	2	10%
			# Other Females	0	10%

5. Bid: Estimated Annual Requirements for Ammonium Hydroxide

Purpose of Bid: To provide Water Management with its annual requirements for Ammonium Hydroxide. This chemical is used in the drinking water process.

Comments: Bids were sent to several bidders and only one response was received. 24,000 gallons @ .6221/gallon and 50 totes @ \$444.91/tote

Opened: May 11, 2010

Bidders:	Brenntag SE	* \$37,175.90
	Durham, NC	

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	123		# Black Males	48	38%
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Total # Females	33	26%	# White Males	39	35%
Total # Males	90	74%	# Other Males	3	1%
			# Black Females	6	3%
			# White Females	27	23%
			# Other Females	0	0%

6. Bid: One (1) Compact Crew Cab Pickup Truck

Purpose of Bid: To provide the Parks & Recreation Department with a new truck.

Comments:

Opened: May 12, 2010

Bidders:	University Ford	* \$15,082.00
	Durham, NC	
	Vic Bailey Ford	\$15,322.00
	Spartanburg, SC	
	Crossroads Ford	\$16,131.00
	Cary, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	201		# Black Males	19	9%
Total # Females	26	13%	# White Males	153	76%
Total # Males	175	87%	# Other Males	3	2%
			# Black Females	2	1%
			# White Females	24	12%
			# Other Females	0	0%

7. Bid: Annual Requirements for Hydrofluosilicic Acid HFS 23%

Purpose of Bid: To provide the Water Management Department with its estimated annual requirements for Hydrofluosilicic Acid. This is the final chemical added to the drinking water for the prevention of tooth decay.

Comments: 400 tons @\$508.50 per ton

Opened: May 11, 2010

Bidders:	Pencco, Inc.	* \$203,400.00
	San Felipe, TX	
	Univar USA	\$216,800.00

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Jamestown, NC	
Key Chemical	\$218,800.00
Waxhaw, NC	
LCI Lucier Chemical	\$253,200.00
Jacksonville Beach, FL	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	46		# Black Males	0	0%
Total # Females	7	15%	# White Males	24	55%
Total # Males	39	85%	# Other Males	15	30%
			# Black Females	0	0%
			# White Females	6	10%
			# Other Females	1	5%

8. Bid: One (1) Sewer & Catch Basin Cleaning Body

Purpose of Bid: To provide the Water Management Department with a Sewer & Catch Basin Cleaning Body.

Comments: This body will be mounted on a cab & chassis purchased under a separate bid.

Opened: May 3, 2010

Bidders:	Super Products LLC	* \$167,007.00
	New Berlin, WI	
	Bruder/Sharpe, Inc.	\$175,349.00
	Madison, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	131		# Black Males	2	2%
Total # Females	6	5%	# White Males	121	91%
Total # Males	125	95%	# Other Males	2	2%
			# Black Females	1	1%
			# White Females	5	4%
			# Other Females	0	0%

9. Bid: One (1) Eighteen Cubic Yard Recycling Trailer

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Purpose of Bid: To provide the Solid Waste Department with a Recycling Trailer.

Comments:

Opened: April 22, 2010

Bidders:	Pro-Tainer	* \$10,800.00
	Alexandria, MN	
	Dempster Industries	\$16,379.00
	Beatrice, NE	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	26		# Black Males	2	8%
Total # Females	4	15%	# White Males	20	77%
Total # Males	22	85%	# Other Males	0	0%
			# Black Females	1	4%
			# White Females	3	11%
			# Other Females	0	0%

10. Bid: Installation of miscellaneous safety equipment and up-grades for a Tymco Sweeper

Purpose of Bid: To provide the Street Cleaning Division with miscellaneous safety equipment and up-grades for a Tymco Sweeper.

Comments:

Opened: April 30, 2010

Bidders:	Amick Equipment Company, Inc.	* \$30,475.00
	Lexington, SC	
	Consolidated Disposal Systems, Inc.	\$33,346.00
	Smyrna, GA	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	20		# Black Males	0	0%
Total # Females	4	20%	# White Males	16	80%

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Total # Males	16	80%	# Other Males	0	0%
			# Black Females	1	5%
			# White Females	3	15%
			# Other Females	0	0%

11. Bid: One (1) 33,000 GVWR Cab & Chassis

Purpose of Bid: To provide the Water Management Department with a 33,000 GVWR Cab & Chassis.

Comments: This cab & chassis will have a Sewer Cleaning body mounted on to it. The Sewer Cleaning body will be purchased under a separate bid.

Opened: May 7, 2010

Bidders:	Navistar	* \$85,738.00
	Warrenville, IL	
	White's International Truck	\$89,605.80
	Greensboro, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	11,533		# Black Males	1,042	(9%)
Total # Females	2,750	27%	# White Males	6,657	(58%)
Total # Males	8,783	76%	# Other Males	1,084	(9%)
			# Black Females	543	(5%)
			# White Females	1,878	(16%)
			# Other Females	329	(3%)

12. Bid: Estimated Annual Requirements for Sodium Hypochlorite

Purpose of Bid: To provide Water Management with its annual requirements for Sodium Hypochlorite. This chemical is used in the disinfection process at the water treatment plant. Chlorine is used to kill pathogenic bacteria and viruses that could be harmful if present in the drinking water.

Comments: Bids were sent to several bidders and only one response was received. 234,000 gallons @ .80/gallon.

Opened: May 11, 2010

Bidders:	Univar USA	* \$187,200.00
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Jamestown, NC

*Awarded based on: Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	30		# Black Males	1	10%
Total # Females	4	30%	# White Males	25	60%
Total # Males	26	70%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	4	30%
			# Other Females	0	0%

13. Bid: Miscellaneous Chains and Sprockets

Purpose of Bid: To purchase chains and sprockets for the #2 Grit Collector at the South Durham WRF.

Comments:

Opened: April 30, 2010

Bidders:	Kaman Industrial Technologies Corp	* \$20,250.96
	Greensboro, NC	
	WSG Solutions	\$47,790.00
	Montgomeryville, PA	

*Awarded based on: X Low Bid Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	7		# Black Males	0	0%
Total # Females	1	15%	# White Males	6	85%
Total # Males	6	85%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	15%
			# Other Females	0	0%

14. Bid: One 13,000 GVWR Cab and Chassis

Purpose of Bid: To provide the Water & Sewer Maintenance Division with a 13,000 GVWR Cab and Chassis.

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Comments: A truck body purchased under a separate bid will be mounted on this chassis.

Opened: May 17, 2010

Bidders:	Piedmont Truck Center, Inc.	* \$20,494.00
	Greensboro, NC	
	Capital Ford of Raleigh	\$21,106.50
	Raleigh, NC	
	Vic Bailey Ford	\$21,300.00
	Spartanburg, SC	
	University Ford	\$28,575.00
	Durham, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	71		# Black Males	4	6%
Total # Females	8	12%	# White Males	57	81%
Total # Males	63	88%	# Other Males	2	3%
			# Black Females	0	0%
			# White Females	8	12%
			# Other Females	0	0%

15. **Bid:** **Printing and Fulfillment for the 2009 Water Quality Brochure**

Purpose of Bid: To print and mail the 2009 Water Quality Brochure.

Comments:

Opened: May 24, 2010

Bidders:	MarketPlace-Mail.Com	* \$35,300.00
	Raleigh, NC	
	Theo Davis Printing	\$38,669.00
	Zebulon, NC	

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	2		# Black Males	0	0%
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Total # Females	1	50%	# White Males	1	50%
Total # Males	1	50%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	0	0%
			# Other Females	1	50%

16. Bid: State contract purchase of Motorola High Frequency Radios

Purpose of Bid: Replacement of High Frequency Radios.

Comments: The Administration has analyzed market conditions and compared the contract pricing to other recent, similar bids and recommended using the "North Carolina State Contract" for this purchase.

Eighty-eight (88) Radios @ \$2,019.25 each

Opened: January 4, 2010

Bidders: Motorola, Inc. * \$177,694.00
Greensboro, NC

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	40,312		# Black Males	1,377	3%
Total # Females	11,000	27%	# White Males	20,357	51%
Total # Males	29,312	73%	# Other Males	7,578	19%
			# Black Females	929	2%
			# White Females	6,859	17%
			# Other Females	3,212	8%

The SDBE Data Base was used in the solicitation of bids for these items.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

SUBJECT: BID REPORT - JUNE 2010

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of June 2010 was approved at 7:19 p.m. by the following vote: Ayes: Mayor

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Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Date: July 1, 2010

To: Thomas J. Bonfield, City Manager

Through: Wanda S. Page, Deputy City Manager
David Boyd, Finance Director

From: Joseph W. Clark, CLGPO, Purchasing Manager

Subject: Bid Report – June 2010

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of June 2010.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. **Bid: Computer Maintenance and Warranty for City/County Inspections**

Purpose of Bid: To provide the City/County Inspections with a 4th year extended warranty for their Tough Book computers.

Comments: 35 computers @ \$375.31 each

Opened: May 13, 2010

Bidders:	IC Logic	* \$13,135.85
	Chapel Hill, NC	
	Seamless Mobility Solutions	\$13,365.00
	Charlotte, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	21		# Black Males	3	15%
Total # Females	11	52%	# White Males	7	33%
Total # Males	10	48%	# Other Males	0	0%
			# Black Females	1	5%
			# White Females	10	47%
			# Other Females	0	0%

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2. Bid: One (1) Hook Lift Service/Dump Truck Body

Purpose of Bid: To provide the Water Management with a Service/Dump Truck Body

Comments:

Opened: May 19, 2009

Bidders:	Quality Truck Bodies	* \$19,820.50
	Wilson, NC	
	Amick Equipment	\$21,402.00
	Lexington, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	12		# Black Males	1	8%
Total # Females	1	8%	# White Males	7	59%
Total # Males	11	92%	# Other Males	3	25%
			# Black Females	0	0%
			# White Females	1	8%
			# Other Females	0	0%

3. Bid: Three (3) 9,800 GVWR Crew Cab & Chassis

Purpose of Bid: To provide the Fire Department with three 9,800 GVWR Crew Cab & Chassis

Comments: Three (3) @ \$24,576.50

Opened: May 25, 2010

Bidders:	Capital Ford, Inc.	* \$73,729.50
	Raleigh, NC	
	University Ford	\$74,967.00
	Durham, NC	
	Piedmont Truck	\$82,536.00
	Greensboro, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

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WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	2		# Black Males	1	50%
Total # Females	0	0%	# White Males	1	50%
Total # Males	2	100%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	0	0%
			# Other Females	0	0%

4. Bid: TASER Accessories

Purpose of Bid: To provide the Police Department with miscellaneous TASER accessories (Cameras, Holsters, Cartridges, and Targets)

Comments: Lawmen's Safety Supplies, Inc. is the sole North Carolina distributor for TASER International equipment and supplies.

Opened: May 4, 2010

Bidders: Lawmens Safety Supplies, Inc. * \$63,808.38
Raleigh, NC

*Awarded based on: ____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	20		# Black Males	0	0%
Total # Females	12	60%	# White Males	8	40%
Total # Males	08	40%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	12	60%
			# Other Females	0	0%

5. Bid: Purchase of a 10,000 GVWR Cab & Chassis

Purpose of Bid: To purchase a F550 Cab and Chassis for Water Management/Plant Maintenance

Comments:

Opened: June 1, 2010

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Bidders:	Capital Ford, Inc.	* \$31,152.50
	Raleigh, NC	
	University Ford	\$31,210.00
	Durham, NC	
	Piedmont Truck	\$35,481.00
	Greensboro, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	2		# Black Males	1	50%
Total # Females	0	0%	# White Males	1	50%
Total # Males	2	100%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	0	0%
			# Other Females	0	0%

6. Bid: One (1) Mowing Tractor

Purpose of Bid: To provide the Parks & Recreation Department with a mowing tractor

Comments:

Opened: March 26, 2010

Bidders:	John Deere	* \$37,256.62
	Cary, NC	
	Revels Tractor Company	\$40,277.00
	Fuquay, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	96		# Black Males	12	12%
Total # Females	17	18%	# White Males	66	69%
Total # Males	79	82%	# Other Males	1	1%
			# Black Females	0	0%
			# White Females	17	18%
			# Other Females	0	0%

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7. Bid: DBAP Air Compressor Replacement

Purpose of Bid: Emergency repairs to an HVAC unit at the Durham Bulls Athletic Park

Comments:

Opened: June 11, 2010

Bidders:	Trademasters Services	* \$25,546.00
	Durham, NC	
	Brady Trane	\$26,873.00
	Morrisville, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	10		# Black Males	0	0%
Total # Females	1	10%	# White Males	7	70%
Total # Males	9	90%	# Other Males	2	20%
			# Black Females	0	0%
			# White Females	1	10%
			# Other Females	0	0%

8. Bid: Three (3) Mid-Sized Sport Utility Vehicles

Purpose of Bid: To provide the Police Department with Sport Utility Vehicles

Comments: Three @ \$21,130.00 each.

Opened: June 14, 2010

Bidders:	University Ford	* \$63,390.00
	Durham, NC	
	Capital Ford	\$64,200.00
	Raleigh, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	201		# Black Males	19	9%
Total # Females	26	13%	# White Males	153	76%
Total # Males	175	87%	# Other Males	3	2%

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# Black Females	2	1%
# White Females	24	12%
# Other Females	0	0%

9. Bid: Gymnasium Equipment for the Parks & Rec/Walltown Center

Purpose of Bid: To purchase gym and exercise equipment for the Walltown Center using CIP money.

Comments: BSN bid is non-responsive due to not bidding on all items. US fitness Products is the low, responsive bid.

Opened: June 4, 2010

Bidders:	BSN	\$23,394.19
	Dallas, TX	
	US Fitness Products	* \$32,492.00
	Raleigh, NC	
	ProSource	\$43,595.00
	Raleigh, NC	

*Awarded based on: _____ Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	16		# Black Males	5	30%
Total # Females	3	20%	# White Males	5	30%
Total # Males	13	80%	# Other Males	3	20%
			# Black Females	0	0%
			# White Females	1	5%
			# Other Females	2	15%

10. Bid: Traffic Glass Spheres

Purpose of Bid: To provide the traffic sign shop with glass spheres for use as drop-on reflective beads in thermoplastic paint

Comments: 44,000 lbs @ .31

Opened: August 6, 2009

Bidders:	Ennis Paint	* \$13,640.00
	Ennis, TX	
	Swarco Industries	\$13,860.00
	Columbia, TN	

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Potters Industries
Valley Forge, PA

\$14,124.00

*Awarded based on: X Low Bid Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	359		# Black Males	27	10%
Total # Females	85	24%	# White Males	100	30%
Total # Males	274	76%	# Other Males	147	36%
			# Black Females	7	2%
			# White Females	52	12%
			# Other Females	26	10%

11. Bid: Thermoplastic Traffic Paint

Purpose of Bid: To provide the traffic sign shop with traffic paint

Comments: 132,000 lbs of Yellow @ .4625

Opened: June 10, 2010

Bidders:	Ennis Paint Inc.	* \$61,050.00
	Ennis, TX	
	Swarco Industries	\$61,380.00
	Columbia, TN	
	Sherwin Williams	\$108,636.00
	Manchester, GA	

*Awarded based on: X Low Bid Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	359		# Black Males	27	10%
Total # Females	85	24%	# White Males	100	30%
Total # Males	274	76%	# Other Males	147	36%
			# Black Females	7	2%
			# White Females	52	12%
			# Other Females	26	10%

12. Bid: Water Management/Williams WTP Analytical Equipment and Maintenance Agreement

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Purpose of Bid: To provide drinking water analytical equipment and maintenance service

Comments: Bids were sent to several bidders and only one response was received.

Opened: June 21, 2010

Bidders: Hach Company * \$23,694.80
Loveland, CO

*Awarded based on: _____ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	1380		# Black Males	16	1.16%
Total # Females	464	33.62%	# White Males	831	60.22%
Total # Males	916	66.38%	# Other Males	69	5%
			# Black Females	5	.36%
			# White Females	403	29.20%
			# Other Females	56	4.06%

13. Bid: Tymco Gutter Broom Replacements

Purpose of Bid: To replace gutter brooms for the Street Maintenance Division

Comments: 150 each @ \$702.00

Opened: June 17, 2010

Bidders: United Rotary Brush Corporation * \$10,530.00
Shawnee Mission, KS
Old Dominion Brush \$10,600.00
Richmond, VA

*Awarded based on: ☒ Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	17		# Black Males	1	5.9%
Total # Females	5	29.5%	# White Males	11	64.7%
Total # Males	12	70.5%	# Other Males	0	0%

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# Black Females	0	0%
# White Females	5	29.4%
# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for these items.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

SUBJECT: RESOLUTION AUTHORIZING THE CITY AUCTION

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a Resolution Authorizing the City Auction to be held on September 25, 2010 at 10:00 a.m. was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9735

SUBJECT: SETTING PUBLIC HEARINGS TO CONSIDER ORDERING PETITIONED IMPROVEMENTS - SEWER MAIN AND SEWER OUTFALL ON THOMPSON ROAD - SEWER MAIN ON EAST GEER STREET - SIDEWALK ON HARDWICK DRIVE (NORTH SIDE)

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept a Certificate of Sufficiency from the Manager of Engineering and Stormwater for each of the following petitions; and

To adopt a Resolution Setting a Public Hearing for August 16, 2010, to consider ordering each of the following improvements was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Sewer Main and Sewer Outfall on Thompson Road from the West Property Line of PIN 0833-12-85-3549 to the South Property Line of PIN 0843-03-04-5606;

Sewer Main on East Geer Street from the West Property Line of PIN 0853-03-10-2908 to Bullock Road; and

Sidewalk on Hardwick Drive (North Side) from the West Property Line of PIN 0728-03-24-3003 to Wellingham Drive.

SUBJECT: PERSONNEL ACTION FORM (PAF) PERFORMANCE AUDIT - JUNE 2010

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MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept the Personnel Action Form Performance Audit dated June 2010, as presented and approved at the June 28, 2010 meeting of the Audit Services Oversight Committee was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: NON-CITY AGENCY PROGRAM SPECIFIC PERFORMANCE
EVALUATIONS - JUNE 2010**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive and accept the Non-City Agency Program Specific Compliance Evaluations as presented and approved at the June 28, 2010 meeting of the Audit Services Oversight Committee was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE QUARTERLY REPORT

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive the Capital Program Advisory Committee (CPAC) 4th Quarter Report was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: ORDINANCE AMENDING GENERAL CAPITAL IMPROVEMENT
PROJECT ORDINANCE**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending General Capital Improvement Project Ordinance, Fiscal Year 2009-10, as amended, the same being Ordinance #13841 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #14043

**SUBJECT: FY11 CONTRACT BETWEEN CITY OF DURHAM AND DOC ARTS, INC.
FOR ECONOMIC DEVELOPMENT THROUGH CULTURAL ARTS**

To authorize the City Manager to execute a contract with Doc Arts, Inc. in an amount not to exceed \$55,000.00 for cultural arts-based economic development services.

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Note: By a vote of 7/0, the City Council referred this item back to the administration--Office of Economic and Workforce Development--at the request of the City Manager.

**SUBJECT: CITY OF DURHAM EMPLOYMENT AND TRAINING 2009-2011 GRANT
PROJECT ORDINANCE SUPERSEDING PROJECT ORDINANCE #13966**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to accept the Employment and Training Grant by executing the grant documents; and

To adopt the Employment and Training Grant Project Ordinance FY 2009-2011 in the amount of \$1,792,677.00 superseding Grant Project Ordinance #13966 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #14044

SUBJECT: DELEGATION OF REIMBURSEMENT RESOLUTION AUTHORITY

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a Resolution Declaring the Intent of the City to Reimburse Itself for Capital Expenditures from the Proceeds of Certain Tax-Exempt Obligations; and Delegate Authority to Approve Individual Reimbursement Resolutions to the Finance Director was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9736

SUBJECT: HUD GRANT ASSISTANCE AWARD AMENDMENT 2010

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to accept the U.S. Department of Housing and Urban Development (HUD) Grant by executing the grant documents; and

To adopt the HUD Cooperative Grant Project Ordinance in the amount of \$89,068.00 superseding Grant Project Ordinance No. 13923 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #14045

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**SUBJECT: CONTRACTS FOR THE DOMESTIC VIOLENCE COURT JUDGE AND
LEGAL ASSISTANT**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute the contracts between the City of Durham, the administrative office of the courts (AOC) and other judicial officials under which the AOC will expend city funds to continue to support the salary and benefits for a judge and a legal assistant in the amount of \$134,741.00 when combining the contracts was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: MINOR NAMING RIGHTS FOR THE DURHAM PERFORMING ARTS
CENTER - F. M. KIRBY FOUNDATION, INC.**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a minor naming rights contract with F. M. Kirby Foundation, Inc. in the amount of \$40,000.00; and

To authorize the City Manager to make modifications to the contract so long as modifications do not decrease the dollar amount to be received nor increase the benefits to be provided by the City was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: ANNUAL REPORT ON LIMITED AGRICULTURE PERMITS
(HENS/FEMALE CHICKENS)**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive the Annual Limited Agriculture Permit (Hens/Female Chickens) Report was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: 2009 ANNUAL REPORT OF THE DURHAM OPEN SPACE AND TRAILS
COMMISSION**

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive the Durham Open Space and Trails Annual Report was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM CITY-COUNTY PLANNING DEPARTMENT WORK
PROGRAM, 2010-2011**

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MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the Durham City-County Planning Department 2010-2011 Work Program was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CITY OF DURHAM WEB SITES, WEB SERVICES, AND WEB TECHNOLOGY UPGRADE USING MICROSOFT SHAREPOINT 2010 - NORTHRIDGE SYSTEMS, INC.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to enter into a contract with Northridge Systems, Inc. to assess, design, development, and implement new functionality and improvements to the City's intranet web site in the amount of \$210,000.00;

To authorize the City Manager to approve additional services from Northridge Systems Inc., as specified in the contract, to assess, design, development, and implement new functionality and improvements to the City's public web site for the additional amount of \$55,000.00, with the total amount of the contract, should the City Manager exercise authority to approve the additional services, not to exceed \$265,000.00; and

To authorize the City Manager to make changes to the contract which do not increase the amounts paid by the City nor decrease the services provided by the Contractor as compared to the version of the contract was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT FOR SANITARY SEWER FLOW MONITORING SERVICE AND IMPROVEMENTS - ADS ENVIRONMENTAL SERVICES LLC

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a five year contract with ADS Environmental Services LLC, for Sanitary Sewer Flow Monitoring Network Service and Improvements in the amount of \$1,204,942.20 was approved at 7:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the July 22, 2010 Work Session:

8. Workforce Development Board - Appointments

To appoint the following citizens to the Workforce Development Board with terms expiring June 30, 2012:

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Chip Wood - Representing Public Sector – Employment Agency
Li-An Yeh - Representing Public Sector – Educational Agency
ShaShawnda Carlton – Representing Private Sector
Janis M. Clark – Representing Private Sector
Michael Johnston Goodman – Representing Private Sector
Atrice Campbell Long – Representing Private Sector
John A. Rodriguez – Representing Private Sector

(This item was approved at the 7-22-10 Work Session)

26. Amendment No. 2 - Professional Services On-Call Supplemental Agreement for the Design of the Fayetteville Road Phase II Extension

To authorize the City Manager to execute an amendment to the On-Call Supplemental Agreement No. 2 for Fayetteville Road Phase II Extension Design (Riddle Road/Buxton Drive Re-alignment), in the amount of \$35,000.00.

(This item was approved at the 7-22-10 Work Session with a vote of 7/0)

27. Contract Amendment No. 1 - ST-244, 2009 Street Improvements

To authorize the City Manager to execute a contract extension for ST-244, 2009 Street Improvements in the amount of \$248,569.78.

(This item was approved at the 7-22-10 Work Session with a vote of 7/0)

28. Contract SD-2011-01 West Markham Avenue Culvert Replacement

To authorize the City Manager to execute a contract for SD-2011-01, West Markham Avenue Culvert Replacement, with Centurion Construction Company, Inc. in the amount of \$526,476.46;

To establish a contingency fund in the amount of \$78,971.47 (15%); and

To authorize the City Manager to negotiate change orders provided that the cost of all change orders does not exceed \$78,971.47 and the total project cost does not exceed \$605,447.93.

(This item was approved at the 7-22-10 Work Session with a vote of 7/0)

29. Ellerbe Creek Stream Enhancement and Stabilization Temporary Construction Easement and Conservation Easement

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To authorize the Mayor to execute the temporary construction easement for the Ellerbe Creek stream enhancement and stabilization project;

To authorize the City Manager to make modifications to the temporary construction easement provided the modifications are consistent with the general intent of the temporary construction easement approved by the City Council;

To authorize the Mayor to execute the subsequent permanent conservation easement deed by which the easement will be conveyed to the state through CWMTF; and

To authorize the City Manager to make modifications to the permanent conservation easement provided the modifications are consistent with the general intent of the permanent construction easement approved by the City Council.

(This item was approved at the 7-22-10 Work Session with a vote of 7/0)

39. Princess A. Long

To receive comments from Princess A. Long regarding DATA buses being re-routed out of their community.

(Citizen did not appear at the 7-22-10 Work Session)

40. John Tarantino

To receive comments from John Tarantino regarding neighborhood improvement, trash and signage.

(Comments were received at the 7-22-10 Work Session)

City Manager Bonfield recognized Wally Boman, District Engineer of NCDOT, for an update on the street resurfacing project in downtown Durham. Mr. Boman provided background information on the project. He noted the project should be completed around September 16, 2010, discussed penalties the contractor would be subject to if the project is not complete, the work time restrictions, scope of project as well as shared problems the contractor experienced relating to utilities in the roadway, trolley tracks, sink holes and the release air value.

Council held discussion on the work hours and quality of work.

[GENERAL BUSINESS AGENDA]

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SUBJECT: PROPOSED CONDEMNATION OF PROPERTY FOR PERMANENT UTILITY EASEMENT AT 1106 HILLANDALE ROAD (PARCEL ID # 104181) FOR THE HILLANDALE DUAL WATERLINE REPLACEMENT PROJECT

To find it necessary, in the public interest, and for the public use and benefit, to condemn the following interests in the property identified as PIN 0812-16-94-0809 and Parcel Reference No. 104181: (i) a water utility easement of approximately 10,218 square feet, (ii) a water and sewer utility easement of approximately 3,822, and (iii) a temporary construction easement of approximately 6,538 square feet, all as shown on the map entitled "City of Durham System Improvements Project Hillandale Road Dual Waterline Replacement, Phase 1" prepared by Cooper and Associates, revised July 16, 2010; and

To authorize the City Attorney initiate condemnation proceedings for that purpose, with a deposit into the court of \$ \$23, 671.00 as the City's estimate of just compensation.

Note: By a vote of 7/0, the City Council referred this item back to the administration—Department of Water Management--at the request of the City Manager.

[PUBLIC HEARINGS]

SUBJECT: PLAN AMENDMENT – JUBILEE CHRISTIAN CHURCH (A1000002) – 4809 PROSPECTUS DRIVE, SOUTH OF EAST NC 54 HIGHWAY AND NORTH OF SEDWICK ROAD

To receive public comments on the Jubilee Christian Church (A1000002) Plan Amendment; and

To adopt a Resolution to Change the Land Use Designation on the Future Land Use Map of the Durham Comprehensive Plan from Industrial to Office.

Staff Recommendation: Approval, based on the justification and meeting the four criteria for plan amendments

Planning Commission Recommendation: Approval, April 13, 2010, 12-0, based on the information provided in the staff report, the justification and meeting the four criteria for plan amendments.

City/County Planning Director Steve Medlin certified that proper notice for all public hearing items on the agenda this evening has been done in accordance with the Unified Development Ordinance standards and the general statutes and those affidavits are part of the case file for review. Mr. Medlin briefed Council on the plan amendment from Jubilee Christian Church to change the Future Land Use Map of the Durham Comprehensive Plan for an approximate 4.7 acre tract from industrial to office. Mr. Medlin stated this request would reduce fire suppression standards and a site plan was submitted and approved under the existing industrial light zoning for a place of worship. He reported during the course of construction drawing review, the applicant was informed that they would have to put in the proper sized fire suppression systems that would serve the use allowed in

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I-L. He stated the applicant has decided to rezone the property to O-I. He stated the four criteria for plan amendments have been satisfied, staff is recommending approval and the Planning Commission recommended approval on April 13, 2010.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a Resolution to Change the Land Use Designation on the Future Land Use Map of the Durham Comprehensive Plan from Industrial to Office was approved at 7:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9737

SUBJECT: PLAN AMENDMENT – DOWNTOWN NORTH (A1000003) – CITY OF DURHAM – SOUTH OF WEST GEER STREET, WEST OF NORTH STREET, NORTH OF CORPORATION STREET, AND EAST OF MADISON STREET

To receive public comments on the Downtown North (A1000003) Plan Amendment; and

To adopt a Resolution to Change the Land Use Designation on the Future Land Use Map of the Durham Comprehensive Plan from Medium Density Residential, Urban Tier to Design District, Downtown Tier.

City/County Planning Director Steve Medlin briefed Council on the plan amendment submitted by the Planning Department at the initiation of the City Council that would change approximately 3.79 acres of the Future Land Use Designation from medium density residential in the Urban Tier to the Design District in the Downtown Tier. He reported this request was initiated by Council at the request of citizens who attended the previous downtown plan amendment and rezoning hearing on February 1, 2010. He reported the plan amendment meets the four criteria; staff recommends approval and the Planning Commission recommended approval on June 8, 2010.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt a Resolution to Change the Land Use Designation on the Future Land Use Map of the Durham Comprehensive Plan from Medium Density Residential, Urban Tier to Design District, Downtown Tier was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9738

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**SUBJECT: ZONING MAP CHANGE – JUBILEE CHRISTIAN CHURCH (Z1000002) -
4809 PROSPECTUS DRIVE, GENERALLY SOUTH OF EAST NC 54
HIGHWAY AND NORTH OF SEDWICK ROAD**

To receive public comments on the zoning map change for Jubilee Christian Church (Z1000002);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1000002 out of Industrial Light (IL) and placing same in and establishing same as Office Institutional (OI); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, should the plan amendment be approved, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 12 – 0 on April 13, 2010. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the plan amendment be approved, the request would be consistent with the Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report.

[The site is located at 4809 Prospectus Drive, generally south of East NC 54 Highway and north of Sedwick Road, PIN: 0738-03-21-2427]

City/County Planning Director Steve Medlin briefed Council on the zoning map change. He stated this request would change the zoning designation of 4.719 acres from industrial light to office institutional which would satisfy a need to downzone the property in order to downsize the fire suppression systems required on this site. He stated the request is based on the recent action taken regarding the plan amendment which would make this request consistent with the Durham Comprehensive Plan and the Unified Development Ordinance standards. Mr. Medlin reported staff is recommending approval of this change and the Planning Commission recommended approval on April 13, 2010.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

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MOTION by Council Member Clement seconded by Council Member Woodard to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1000002 out of Industrial Light (IL) and placing same in and establishing same as Office Institutional (OI); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 7:45 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #14046

SUBJECT: ZONING MAP CHANGE – DOWNTOWN NORTH (Z1000003) – CITY OF DURHAM - WEST GEER STREET ON THE NORTH, NORTH STREET ON THE EAST, WEST CORPORATION STREET ON THE SOUTH, AND RIGSBEE AVENUE ON THE WEST

To receive public comments on the zoning map change for Downtown North (Z1000003);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1000003 out of Industrial Light (IL), Residential Urban – Multifamily (RU-M), and Design District – Support 2 (DD-S2) and placing same in and establishing same as Design District – Support 1 (DD-S1) and DD-S2; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the pending plan amendment (A1000003) be approved, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, should the plan amendment be approved, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 10 – 0 on June 8, 2010. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the plan amendment be approved, the request would be consistent with the Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report.

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[The site is the area bounded by West Geer Street on the north, North Street on the east, West Corporation Street on the south, and Rigsbee Avenue on the west. PINs: 0821-08-99-7732, -7824, -7915, -9712, -9762, -9828, -9831, -9934, 0822-20-90-6193, -7252, -9017, -9077, -9125, -9203, -9263, 0831-05-09,0721, -0815, -0935, -1619, -1714, -1719, -1814, -1819, -1935, 0832-17-00-0026, -0087, -0135, -0223, -0273, -1047, -1125, -1243]

City/County Planning Director Steve Medlin briefed Council on the zoning map change. He stated this request would change the zoning designation of 6.838 acres from Design Districts Support 2, Industrial light and Residential Urban -multi-family to Design District - Support 1 and Design District - Support 2. He noted this request was initiated by the City Council from the public hearing held in February. Mr. Medlin reported staff is recommending approval of this request because of its compliance with the Unified Development Ordinance and the Comprehensive Plan and the Planning Commission recommended approval on June 8, 2010.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this request, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1000003 out of Industrial Light (IL), Residential Urban – Multifamily (RU-M), and Design District – Support 2 (DD-S2) and placing same in and establishing same as Design District – Support 1 (DD-S1) and DD-S2; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the pending plan amendment (A1000003) be approved, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 7:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #14047

SUBJECT: ZONING MAP CHANGE – ALPHIN COMMERCIAL CENTER (Z0900010) – KENNETH B. WRENN, WRENN ENGINEERING - 5019 NC HIGHWAY 55, EAST SIDE OF NC HIGHWAY 55 MID-WAY BETWEEN EAST NC 54 HIGHWAY SEDWICK ROAD

To receive public comments on the zoning map change for Alphin Commercial Center (Z0900010);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z0900010 out of Commercial Neighborhood (CN) and Rural Residential (RR) and placing same in and establishing same as Commercial Center with a development plan (CC(D)); and

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To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 8 – 3 on June 8, 2010. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report.

[The site is located at 5019 NC Highway 55, east side of NC Highway 55 mid-way between East NC 54 Highway Sedwick Road. PIN: 0738-03-01-8050]

City/County Planning Director Steve Medlin briefed Council on the zoning map change. He stated this request would change the zoning designation of 7.36 acres from Commercial Neighborhood and Residential Rural to Commercial General with a development plan. He noted the development plan contains several proffers in both graphic and text commitments and a summary of these commitments include: a building area: 40,000 - 59,000 square feet, 25% property boundary buffer reduction on north side if approved by the Development Review Board, three points of access to the property, 14-foot wide outside lane to accommodate bicycle traffic, three separate building envelopes and a general location for stormwater facility, construction of a north bound right turn lane on NC 55 at the site driveway. He reported the request is consistent with the Future Land Use Map of the Comprehensive Plan. He stated staff is recommending approval of this request and the Planning Commission recommended approval on June 8, 2010.

Mayor Bell opened the public hearing.

Council Member Woodard asked for clarification if this property would be subject to the Jordan Lake Rules.

Kenneth Wrenn, representing the applicant, stated they are responsible for adhering to the stormwater regulations that are in place as of June 15th.

City/County Planning Director Steve Medlin stated since a site plan has not been submitted by the applicant they would be subject to the new Jordan Lake Rules.

Council Member Woodard asked the applicant is it your understanding that since you have not submitted a site plan this project would adhere to the Jordan Lake Rules.

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Kenneth Wrenn, representing the applicant, replied that's correct.

There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z0900010 out of Commercial Neighborhood (CN) and Rural Residential (RR) and placing same in and establishing same as Commercial Center with a development plan (CC(D)); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 7:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #14048

[GENERAL BUSINESS AGENDA]

SUBJECT: DURHAM HOUSING AUTHORITY BOARD OF COMMISSIONERS - APPOINTMENT

To appoint a citizen to the Durham Housing Authority Board of Commissioners for a person who is directly assisted by the public housing authority with the term to expire on September 28, 2010.

City Clerk Gray announced by ballot [seven votes], Gloria Nottingham was appointed to the Durham Housing Authority Board of Commissioners representing a person directly assisted by the public housing authority with the term expiring on September 28, 2010.

[PUBLIC HEARING]

SUBJECT: TEXT AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE (UDO) – NONCONFORMING OFF-PREMISE SIGNS (BILLBOARDS) (TC1000002)

To receive public comments on the Unified Development Ordinance (UDO) Text Change – Nonconforming Off-Premise Signs (Billboards) (TC1000002).

To endorse the proposed Ordinance, in concept, and to direct staff to make the necessary changes to put the proposed ordinance into legally acceptable form and clarify ambiguities, with the final

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ordinance and overlay map implementing the ordinance brought back to City Council for final adoption.

Planning Staff Recommendation: Denial

Planning Commission Recommendation: Denial (12-0) (See written comments)

T. E. Austin of the City/County Planning Department gave the following presentation on the Unified Development Ordinance Text Amendment (TC1000002, Nonconforming Off-Premise Signs) requested by Fairway Outdoor Advertising to amend sign standards in Article 11 of the UDO:

Background

The current request and an earlier version have been discussed by the Joint City-County Planning Committee since 2008. JCCPC asked the applicant to make presentations of their request to community groups and asked staff to include specific information in the report. The staff report includes that information.

The request was presented to the Durham City-County Planning Commission at their April 13th meeting. After receiving comment from the public, the Commission recommended denial of the request with a vote of 12 to 0.

Request

He highlighted portions of the request and point out areas of concern. The request establishes a Billboard Overlay District along specific highways and interstates in Durham as shown on the map in your packet. The map was generated by staff based on the amendment text. The map depicts where billboards may be installed under current federal and state regulations and locational limitations in the request. The map does not exclude locations based on proximity to residentially zoned or used parcels.

The request also establishes a billboard registration requirement. Every state permitted billboard must register with the City or County within 90 days of passage of the request. No department is specified. A system to register billboards would need to be created and staff assigned to receive, review and ratify billboard registrations.

The request also creates a permit to allow for the removal, relocation or reconstruction or both of registered billboards. That permit would be issued by the Planning Department. Currently, new sign permits are issued by the Inspections Department. The request allows relocated billboards in “non-residentially zoned” lots. Current federal and state regulations allow billboards only in commercially or industrially zoned parcels. The state also restricts billboards along Scenic Byways. No distinction is made for reconstructed billboards. Presumably, these billboards could be reconstructed in any zone contrary to federal and state regulations.

Relocated and reconstructed billboards must meet certain specifications. Most of the specification mirror existing state statutes. I would like to discuss two in particular.

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The request establishes separation requirements. It exempts billboards on multiple poles that are relocated or reconstructed on the same lot. Currently, approximately 73 percent of the billboards in Durham are on multiple poles. The proposed text requires a separation of 1,000 feet of relocated or reconstructed billboards and 500 and 200 feet from locally or nationally designated historic district or residentially zoned or used property if they are on the same side of the road. The text defines same side of the road as “adjacent to the same side of the road and the Billboard faces are oriented to the same direction of traffic.” Nothing in the language precludes signs from being erected across from each other in many places. The state regulates signs inside and outside incorporated areas differently. Spacing reflects proximity to roadway features such as intersections and interchanges.

The request establishes a landscaping requirement. The landscaping requirements must be met by 90 days after registration. A landscaping plan must be submitted to the City or County before a billboard can be relocated or reconstructed. The plan will indicate the location and type of vegetation to ensure coverage and height requirements are met. A canopy tree with a minimum caliper of 2.5 inches must be planted on each end of the billboard. Payment in lieu of installing and maintaining landscaping is allowed if accepted by the City or County.

The request allows for the conversion of some billboards to digital changeable copy displays. The proposal allows a billboard owner to replace 25 percent of its total display area with digital displays. Total display area includes all the billboards a company currently owns in Durham. Many of the existing billboards have multiple faces that would be included in that calculation.

The proposed text requires the display of one eight second public service announcement or PSA every 60 seconds. It defines a PSA as “any announcement for which no charge is made and which promotes programs, activities or services of federal, state, or local governments or the programs, activities or services of non-profit organizations, and announcements regarded as serving community interests, excluding time signals and routine weather announcements.” Concerns about this requirement will be addressed later in the presentation.

The majority of the requirements for digital displays mirror state and federal regulations. However, one regulation allows for displays of 7,500 nits in daylight and 1,000 nits at night. Nits or candela per square meter is a measurement of luminosity or how bright something appears. The brighter an object is compared to its background the easier or clearer it will be to see. Displays with grayscale or full color images require more nits than a single color display. Internet research finds a range of the intensity of daylight from 4,000 to 6,500 nits. The requested maximum daylight display is 15 to 88 percent brighter than these daylight figures on a clear day. The nighttime display can be one quarter as bright of ambient daylight on a clear day.

Issues

A review of the proposal and the implementation of the requirements raise issues. I will review these issues briefly.

Aesthetics are in the eye of the beholder. State and local laws differ of the aesthetics of billboards; as do local and national opinion surveys. Durham is no different. However, Durham determined that billboards and sign clutter, in particular, does not promote economic development. Current sign regulations are based on aesthetics and public safety concerns. An industry sponsored survey found

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some support for industry proposals; a more recent survey conducted by the Durham Convention and Visitors Bureau indicates that citizens overwhelming support maintaining the current sign ordinance.

Billboards are touted for their positive effect on economic development; but, the actual effect is mixed. Billboards can be used to draw visitors to local services and attractions. However, they can also draw visitors to services and attractions in another community. Billboards generate taxes for local governments and pay fees to land owners to allow the billboards on their properties. The tax generated by billboards is minimal because they are taxed as personal property and only a few land owners benefit from leases. The construction and maintenance of billboards provide jobs; however, the numbers of jobs are limited locally, concentrated mainly in LED production. No substantial positive effect has been identified for Durham's economic development.

The amount of distraction of drivers caused by off-premise signs has been debated throughout America. The impact on public safety presented by digital billboards, and digital signs generally is a hot button regulatory issue. Numerous studies in the U.S. have been conducted on driver distraction of various types, by entities including the Federal Highway Administration, the National Highway Traffic Safety Administration, the University of North Carolina Highway Safety Research Center, local governments, and insurance companies. The data from those studies indicates that digital billboards do indeed pose a safety risk to drivers due to their inherent distracting qualities. Courts have agreed, such as the 1st U.S. Circuit Court of Appeals. The Federal Highway Administration (FHWA) is currently conducting research to identify ways to limit the negative impact on drivers from roadside signage.

Any change to one area of a sign ordinance can lead to similar changes in other areas. If digital billboards are allowed, the public safety and aesthetics justifications for prohibiting digital on-premise signs and digital portable signs could be compromised or eliminated. The FHWA says the "growing use of LED technology for advertising in on-premise applications is of concern because such signs may be larger than traditional billboards, closer to the right-of-way and to roadway sections with high task demands, and may include animation and full motion video."

The law is clear that billboards can be regulated more strictly than other signs, and even banned entirely. Nonetheless, sign regulation is legally challenging. The request raises legal concerns in a number of areas. The first is the allowance of billboards in zoning districts other than commercial or industrial districts. The Highway Beautification Act and North Carolina law limit new billboards to locations in those two districts, as interpreted by NCDOT. Also, case law indicates localities cannot zone areas solely to allow for billboard use. It appears that the applicant's proposal as submitted contravenes federal and state law. A second concern is how to allocate billboards between or among companies if new locations are being requested. No mechanism to choose is included in the amendment. A third concern is the requirement to run public service announcements (PSAs) that include noncommercial advertising. Sign regulations must be "content neutral" and in particular, they cannot favor some noncommercial messages over others. Announcements or activities from nonprofit groups may be controversial in nature. It appears that since the noncommercial advertising would be a legal requirement imposed by government, then government would need to require that all requesters be allowed digital time without regard to the message they wish to display. Profane or obscene messages could likely be excluded but it is not clear what else

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could be excluded. Finally how can governing bodies rationally justify allowing digital billboards without allowing the same digital technology for on-premise signs. It is difficult to argue that digital signs should be allowed off-premise and not allowed on-premise, especially since the courts have historically allowed on-premise signs to be treated more favorably than off-premise signs. Durham currently limits on-premise digital displays.

Financial and staffing impacts of this proposal are hard to quantify. The request creates at least two new permits that would need to be developed and staffed in a short time period after adoption. The relocated or reconstructed billboards and new landscaping would need to be inspected. A process for payment in lieu for landscaping would need to be put into place. Statutory authority would have to be ascertained. A Zoning Map Change would have to be processed and adopted with passage. It is not certain that current staffing levels could maintain adopted work program items and priorities and incorporate these new systems.

If Durham decides to change the billboard ordinance to allow digital signs, technical standards must be carefully drafted. All relevant departments and probably an outside consultant should be involved. Staff would need to be trained on enforcing the new ordinance. New technology would need to be purchased to ensure compliance, particularly with digital conversion. The standards contained in the requested text amendment are inadequate to protect Durham citizens and other drivers along its roadways. The FHWA digital billboard safety study currently underway is expected to provide a more comprehensive understanding of the safety implications of digital signs that may lead to guidance or regulation at the federal level. A 2009 report from the American Association of State Highway and Transportation Officials recommends site specific standards for digital displays.

If Durham decides to change the billboard ordinance to allow digital signs, provisions should be included to ensure some benefit and protection for the citizens of Durham. There are numerous options including the following tradeoffs, specific locations, sunset provisions, financial assistance, carbon neutral, and revenue sharing, as mentioned by the Planning Commission and income method which would require a change in North Carolina law. Many of these options have been used by other localities.

There is concern about the effect on Durham's appearance. The proposal is not finely crafted; it is problematic in many critical areas as noted in the presentation. The current ordinance works well and has withstood legal challenge. Citizen reaction has been overwhelmingly negative. Weighing all the issues raised by this request, the fact that little economic benefit for Durham has been identified, and based on extensive research and consideration of the issues, staff recommends denial of the text amendment.

Mayor Bell outlined the ground rules and the time limits for the proponents and opponents speaking on this item.

Mayor Bell opened the public hearing.

Attorney Lewis Cheek, representing the applicant, gave a presentation in support of this item highlighting the following:

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About 25 years ago, ordinances were enacted in Durham to seek to make billboards go away, but billboards are still here. They will be as long as there is business demand.

What does this approach cost?

First, because of limits on repair and replacement, the structures don't look good.

Second, old-style structures have little tax value and generate minimal tax revenue.

Third, because replacement is prohibited, new technology can't be utilized.

It's time to change the approach.

So, what's in it for Durham?

- 1) Registration locally provides local control over appearance and compliance.
- 2) New materials and required landscaping improve appearance.
- 3) Separation requirements eliminate clusters.
- 4) Reconstruction requires removal of billboards from residential and historic districts.

And, with digital billboards come:

- 5) One free public service announcement per minute, twenty-four hours per day.
- 6) Free two-hour public emergency messages like the one for the Minnesota bridge collapse.
- 7) Amber and silver alerts with pictures and descriptions to assist in locating missing senior citizens and children.
- 8) Real-time wanted posters to fight crime like the one used to capture the bank robber who terrorized 4 states.

Durham also gets:

- 9) Fees to support the planning department.
- 10) New Jobs: construction, letter from Cree.
- 11) Flexible and economical advertising to support small local businesses.
- 12) Better structures with greater tax value resulting in increased taxes.

The nay-sayers say:

- 1) Billboards are ugly but why not make them as attractive as possible?

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- 2) Billboards are unsafe but there is no empirical evidence of accidents caused by billboards.
- 3) Billboards provide little economic benefit but fees can be set to cover the cost; at full build-out annual taxes in the amount of \$135,000 are generated; government and non-profits receive \$1 million in free advertising and businesses have access to economical advertising.
- 4) Billboards use electricity and generate carbon dioxide but don't use water, sewer, stormwater capacity, fire protection or other municipal services and technology is improving and renewable energy sources are increasingly available and electricity consumption can be offset by purchasing local renewable energy credits.
- 5) Billboards cause litigation but what litigation will it cause? This text amendment loosens the stranglehold on the industry.
- 6) Billboards are unpopular but the text amendment has been endorsed by the Chamber of Commerce, Durham Crimestoppers, the NC Sheriff-Police Alliance (Durham Chapter), non-profits, like the Hayti Heritage Center and the Durham Rescue Mission, and businesses like Cree.

Some folks just plain don't like anything about billboards. For those folks, there is nothing that the billboard industry can offer that will be acceptable. Asheville, Burlington, Charlotte, Fayetteville, Greensboro, New Bern, Rocky Mount, Wilmington and Winston-Salem all allow billboards, including digital. The text amendment offers the opportunity to change the relationship of the billboard industry in Durham from adversarial to a partnership after 25 years, the time has come.

The following citizens spoke in support of Fairway Outdoor Advertising's request to change the billboard ordinance and upgrade to digital: Matt West, Ernie Mills, Jr., Casey Steinbacker, Anthony Pugliese, Erroll Reese, Danielle Kaspar, Allison Campbell, Rev. Melvin Whitley, Andy Miller, Thelma White, Willie Patterson, Lisa Chavis, Charles Rogers, John Barbee, Russell Barringer, Darryl Hicklen, Jacqueline Wachholz, Dan Jewell, Tony Adams, Craigie Sanders, Victor Valezquez, John White and Patrick Hannah.

The proponents stated this change would provide employment opportunities, pull traffic off interstate to patronize local businesses, serve as a partnership with Fairway, reach out to potential clients, would be an advertising venue for businesses, would show a sign of progression, target customers, non-profit opportunities, encourage participation at events, identify criminals, deliver community information/spread their message, provide aesthetic improvements, serve as effective communication tool for the public and tool for fighting crime, real time message, digital technology, offer silver and amber alerts, convenience, appearance of digital billboard, Fairway has been instrumental in fundraisers, increase tax income, appearance—rebuilt, renovated and upgraded billboards and would be an opportunity to modernize digital billboards.

The following citizens spoke in opposition to this item: James Stivers, Page McCullough, David Harris, Erick Strother, Tom Harris, Bob Novak, Milo Pyne, Susan Pochapsky, David Scheidt, Michael Oehler, Seith Vidal, Marni Goldschlag, Dean Kanipe, Bill Anderson, Tom Miller, Natalie Spring, David Ball, Myers Sugg, Corlis Wood, Robert Healy, Brett Walters, Christine Cupido,

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Nicholas Johnson, Larry Toller, Galia Goodman, Joel Meyer, Launea Meyers, John Schelp, Lavonia Allison, Lucy Harris, Deborah Luecken, Olivia Singleton, Joshua Allen and Aidil Collins.

The opponents noted the text amendment would not be financially and environmentally responsible, there would be distractions from lights, a challenge for getting top spots, current ordinance accomplishes the mission, would decrease property values, safety concerns--taking your eyes off the road, no benefit to Durham, distraction to the driving public, would become a massive clutter, not attractive, have an effect on quality of life, unwelcomed advertisement, no examples of how these billboards solve crime, would cost money and staff time, concerns about aesthetics and would violate the light pollution rule.

Attorney Lewis Cheek addressed questions that were raised concerning the legality of the text amendment which he noted was addressed in a memo that was prepared and submitted to Council. He indicated that the text amendment prepared was based on the text amendment that was enacted in Wilmington. He commented on the 94 billboards already in Durham and the nature/interaction of digital billboards which don't flash. He referenced articles that were provided to council regarding the issue of crime prevention as it relates to billboards and addressed the safety issue noting there is no evidence stating that billboards cause traffic accidents. He made comments noting the fees should pay for the entire program, informed council that there are photocells and dimmer controls on the digital devices that would control the lighting and commented on advantage of public service announcements.

Patrick Byker, representing the applicant, stressed what is being proposed tonight would not create increased liability for the City in regards to imminent domain actions and shared information directly linked to arrests made from tips related to digital billboards.

Mayor Bell closed the public hearing.

Paul Hickman, representing Fairway, responded to questions raised by the Mayor Pro Tem. He discussed the present workforce demographics for billboards in Durham, shared that currently there are no Durham workers and stated workers receive a livable wage. He replied that they would have to contract with landscaping companies and do not have an exact number of employees, but there would be an opportunity for local hiring. He explained as a Chamber member they would look through their membership base for subcontracting opportunities. Finally, he stated they have not hired anybody in the last four or five years due to the economic situation.

Council Member Woodard read a statement that highlighted the following: public involvement regarding this issue, the applicant did not meet its burden of proof and did not prove the public good. He referenced the effect this would have on small businesses and the money that would be taken away from other advertising venues such as the local paper and radio station, pointed out states and cities that do not see the value or positive impact from digital billboards, expressed concern with PSA enforcement and distractions. He commented that residential properties near billboards have decreased in value, outlined cities that do not allow digital billboards and showed a slide presentation that makes Durham a great city referencing the R. Kelly Bryant Bridge.

Relative to crime, Council Member Brown asked staff where is the data that digital billboards really work and are the billboards accepted nationally.

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T. E. Austin, representing the City/County Planning Department, discussed the articles and referenced page 7 of the staff report dealing with billboards. He indicated that the data is mixed as it relates to states and municipalities that accept digital billboards.

Council Member Brown stated he would not be supporting the text amendment based on what was heard tonight. He felt that the bar was not reached and that digital billboards do not play a role in enhancing the City.

Council Member Clement asked what can be done to the Dixie Knife and Gun Show billboard adjacent to the R. Kelly Bryant, Jr. Bridge.

Attorney Lewis Cheek stated under the current ordinance it cannot be moved, but with the text amendment it could be moved.

Since Mr. Hickman lives in Wake County, Council Member Clement asked Mr. Hickman why he did not propose a change regarding billboards in Wake County before coming to Durham.

Paul Hickman, representing Fairway, noted Durham is the most open-minded and progressive City in the Triangle.

Council Member Catotti asked the City Attorney can the billboard next to the R. Kelly Bryant Bridge be removed and to comment on the recommendation noted on page 18 of staff report regarding the legally safest alternative is to not require that PSA be run.

City Attorney Baker replied if it is taken down, they cannot put it back up.

City Manager Bonfield referenced remarks made by Police Chief Lopez at a crime cabinet meeting relating to law enforcement crime fighting perspective of digital billboards. He noted Chief Lopez indicated that digital billboards would assist in crime fighting and would be another beneficial tool for law enforcement; however, in no way should his comments be construed as the police chief or department having an official position concerning digital billboards.

City Attorney Baker commented on the number of years, cost and legal challenges to current ordinances. He reported there has been seven years of litigation in excess of \$1 million in legal fees not including staff time.

Regarding public service announcements, Karen Sindelar reported we cannot legally require that they be run nor can we legally enforce any kind of requirement. We can require some type of public safety announcements or amber alerts.

Council Member Catotti commented on the neighborhood input and felt that there is nothing to gain and much to lose if this current sign ordinance is amended. She noted the applicant's plea to landscape and to maintain their existing billboards can be met under the current ordinance and there are adequate safety systems in place through NCDOT's silver and amber alerts and the county's

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emergency management communication system including reverse 911/CODE RED calls. Also, she noted there would be little financial gain to be realized if there is a change in the ordinance and stated more legal challenges would come if changes are made to the ordinance.

For clarification, T. E. Austin, commented on the Highway Beautification Act noting that the state highway department regulates the billboards in North Carolina based on the federal requirements and limitation and the City would come after that.

Council Member Ali made comments on the billboards that need maintenance/improvements. He asked what needs to be done to have billboards maintained or improved.

T. E. Austin noted the state law would supersede the local ordinance. He stated under the current requirements of state law, maintenance can be done up to 50 percent of the worth of the billboard in the state and made comments regarding the billboards being non-conforming uses and the purpose of having something declared a non-conforming use is to gradually move it from the landscape. He stated there is no laid out plan for these billboards to go away, it would be a matter of natural causes or lack of maintenance until the state declares that they could not have a permit.

T. E. Austin briefed Council on section 11.25 - C [Design Construction and Maintenance] of the sign ordinance. He noted these signs should be maintained even though they are non-conforming.

Mayor Bell asked staff what harm in your opinion occurs to the owners of the billboards and the City if the ordinance is not changed.

T. E. Austin stated under the current ordinance, they would be allowed to maintain up to 50 percent of the value of the billboards as well as keep the 94 billboards. They would not be able to relocate or reconstruct the billboards or convert under state ordinance because the City's ordinance would make it non-conforming requiring a billing permit.

City/County Planning Director Steve Medlin stated he could not think of any harm that the City would actually suffer by retaining the existing ordinance since there have been no issues with this ordinance that has served the City well for the last 20 plus years.

Attorney Lewis Cheek stated there would be harm to the billboard industry if the change is not made to the ordinance--the inability to upgrade, to move signs out of the residential areas, to provide separation, and additional things that would make Durham a better place.

Mayor Bell asked what would be the staff impact if ordinance is changed.

City/County Planning Director Steve Medlin noted other departments including the Inspections Department would be involved. He noted the impact would be one additional full-time equivalency to be able to staff, inspect and monitor this program, plus equipment, vehicle and training.

Council held discussion on public involvement.

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MOTION by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to receive public comments on the Unified Development Ordinance (UDO) Text Change – Nonconforming Off-Premise Signs (Billboards) (TC1000002); and

To endorse the proposed Ordinance, in concept, and to direct staff to make the necessary changes to put the proposed ordinance into legally acceptable form and clarify ambiguities, with the final ordinance and overlay map implementing the ordinance brought back to City Council for final adoption **FAILED** at 11:13 p.m. by the following vote: Ayes: None. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 11:13 p.m.

Linda E. Bratcher, CMC
Deputy City Clerk

D. Ann Gray, MMC
City Clerk